

### **REMARKS**

Claims 1 – 21 and 23 - 25 are pending. By this amendment, the specification and claims 1, 4, 9, 10, 17, 20, 23 and 24 are amended, claim 21 is canceled, and new claim 26 is added. The specification is amended to correct a previously filed amendment and to correct the Related Applications section. Support for the amendments to claims 1, 9, 10, 17 and 20, and for new claim 26, can be found at least in Figures 6a – 6c and their accompanying descriptions, page 25, line 25 to page 32, line 15. The claim 20 amendment and the amendment to claim 4 are also supported by original claim 21. Claim 23 is amended to correct a typographical error. Claim 24 is amended to correct its dependence in view of the cancellation of claim 21. No new matter is introduced. Reconsideration and allowance of the claims are respectfully requested.

#### **Objection to the Specification**

On page 2 the Office Action objects to the specification because a prior amendment “introduces new matter into the specification.” The specification is amended to address the “new matter” concern. In addition, the specification is amended at page 1 to correct an erroneous reference to prior applications. Withdrawal of the objection to the specification is respectfully requested.

#### **Claim Rejections Under 35 U.S.C. § 112, ¶ 1**

On pages 2-5 the Office Action rejects claims 1 – 21 and 23 – 25 under 35 U.S.C. § 112, ¶ 1. In particular, the Office Action asserts that claims 1, 9, 10, 17, 20 and 25 contain “subject matter which was not described in the written specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.” This rejection is, in part, respectfully traversed.

Regarding the first basis for rejecting claims 1, 9, 10, 17, 20, and 25, the Office Action asserts that the specification does not support a file server or network manager receiving a “second authorization code.” Applicants agree, and claims 1, 9, 10, and 17 are amended to recite sending the second authorization code. However, Applicants assert that claims 20 and 25, as previously presented, correctly recite the feature of the second authorization code.

Regarding the second basis for rejecting claims 1, 9, 10, 17, 20, and 25, the Office Action asserts that the specification does not support enabling set top terminals to receive a requested program. Applicants disagree.

The Office Action cites sections of the specification for the proposition that the first authorization code, which is sent to a file server, “enable[s] the set top terminal to tune to a specific preview channel.” Applicants agree with this assertion. However, enabling a set top terminal to tune to a preview channel is but one step of a first of several methods for providing video on demand functionality. This first method is disclosed in detail at page 26, line 24 to page 29, line 9, and in Figure 6b. A second method is disclosed in detail at page 29, line 10 to page 31, line 23, and in Figure 6c. Instead of a “preview channel,” this second method involves tuning a set top terminal to a channel displaying the requested program during a time period in which an “embedded preview” associated with the requested program is being displayed. *See* page 29, line 21 to page 30, line 1. Other methods for providing video on demand are also disclosed.

Regarding the first method, note in Figure 6b, step 326 recites “Switch Requesting Set Top Terminal to Channel Displaying Previews,” but that step 332 recites “Enable Program Delivery.” Furthermore, as noted above with respect to the second method of Figure 6c, use of a “preview channel” is merely a step of but one of the disclosed methods for providing video on demand. Thus, Applicants do not agree with the Office Action’s assertion that claim 1 and the other independent claims should be limited to enabling a set top terminal to tune to a preview channel. Furthermore, contrast step 332: “Enable Program Delivery” (and its accompanying description in the specification) with the corresponding feature from claim 1: “an authorization component . . . [that transmits] a first authorization code to enable set top terminals to receive a requested program.” Applicants assert that step 332’s “Enable Program Delivery” and claim 1’s “enable set top terminals to receive a requested program” are synonymous. Nonetheless, Applicants have amended claim 1 (and claims 9, 10, 17, and 20) to recite the first authorization code enabling delivery of a requested program. Note that claim 25 as previously presented recited “authorizing viewing or delivery of said requested program.” Hence, claim 25 is not amended.

In view of the above described amendments and remarks, Applicants request withdrawal of the rejection of claims 1 – 21 and 23 – 25 under 35 U.S.C. § 112, ¶ 1.

#### **Rejections Under 35 U.S.C. § 103**

On page 6 the Office Action rejects claims 1 – 21 and 23 - 25 as being obvious over U.S. Patent 5,631,693 to Wunderlich et al. (hereafter Wunderlich) in view of U.S. Patent 5,818,511 to

Farry et al. (hereafter Farry) and further in view of U.S. Patent 4,225,884 to Block et al. (hereafter Block). This rejection is respectfully traversed.

### **Claim 1**

Regarding claim 1, the Office Action asserts that Wunderlich discloses the claimed receiver, network manager, and file server, but admits that Wunderlich does not disclose an authorization component that transmits a first authorization code to enable set top terminals to receive a requested program and a second authorization code to descramble a scrambled program. The Office Action then asserts that Farry discloses transmission of a notification signal for the advantage of authorizing service to a subscriber and that Block discloses transmitting authorization codes from a headend to set top terminals for descrambling scrambled programs. The Office Action concludes that it would have been obvious to one of ordinary skill in the art to modify Wunderlich according to Farry and Block to meet the claimed invention.

Wunderlich is directed to on-demand video, audio, and data services. Wunderlich primarily discloses methods and mechanisms to compress and decompress, and to scramble and descramble, programs provided by the services. At column 9, Wunderlich discloses that video programs may be assigned to and viewed on specific demand channels:

The requesting subscriber is addressed, notified of the assigned channel, and authorized to view the program channel assigned for the duration of the program, providing an unused on demand channel is found by the on demand controller 51. Otherwise, the on demand controller 51 will address the subscriber and send him the message that all on demand channels are presently in use and notify him of the next open block of time which he can request. Standard authorization and control signals are used for this process which are compatible with those used for the premium channels of the scheduled programming.

*See column 9, lines 16 – 26.*

Wunderlich also discloses a near video on demand aspect of the services:

For a near video on demand feature, the controller 51 would cause the playback of a particular program sequentially on a particular channel, and the same playback sequence offset in subintervals of the program duration on one or more other channels. In this type of system, an authorized subscriber would have to wait at the most one of the offset subintervals to view the particular program.

*See column 9, lines 61 – 67.*

Wunderlich does not disclose or suggest use of previews or preview channels in conjunction with providing these on demand services.

Farry is directed to a digital communications network that provides a full range of services including video on demand. Farry does not disclose or suggest use of previews or preview channels in conjunction with the video on demand.

Block is directed to a subscription television service including billing and access features. Block does not disclose or suggest use of previews or preview channels in conjunction with the video on demand.

Because Wunderlich, Farry, and Block do not disclose or suggest use of previews or preview channels in conjunction with the video on demand, the combination of these three references also does not disclose or suggest use of previews or preview channels in conjunction with the video on demand.

In contrast to Wunderlich, Farry, and Block, claim 1 recites a first authorization code to enable a set top terminal to tune to a specific preview channel. As noted above this feature is not taught or suggested by Wunderlich, Farry, and Block, individually and in combination. Accordingly, claim 1 is patentable.

### **Claim 3**

Regarding claim 3, the Office Action asserts that "Wunderlich discloses a network manager (51) that comprises a processor having control software that compile the program requests to determine if a channel is available for a requesting subscriber as described in col. 9, lines 15 – 25." Applicants disagree with the Office Action's characterization of this part of Wunderlich. Note that at column 9, lines 5 – 12, Wunderlich states "at the time requested by the subscriber ... [t]he on demand processor 51 assigns a playback processor 54 whose output channel is not in use at the time of the program." At column 3, lines 11 – 20, Wundelich states:

According to the invention, an on demand services feature for a subscriber system comprises a headend coupled to a distribution network serving a multiplicity of subscribers in a geographically contiguous area. Each subscriber receives a plurality of common standard channels having scheduled programming, and a group of individualized services from on demand channels. In this manner, the carrier frequencies of the scheduled channels and on demand channels can be frequency division multiplexed into an effective subscriber system.

At column 3, lines 37 – 45, Wunderlich states:

The demand processor also comprises a plurality of output processors and an on demand controller which receives demands for the program files stored on the file server from the subscribers and retrieves the particular program requested from the memory. The on demand controller then routes the program file to an output processor which is not in use. The selected output processor converts the program file to an analog format which can then be modulated on a carrier and broadcast to the particular subscriber demanding the program.

Applicants contend that the above cited sections of Wunderlich clearly illustrate that what is disclosed is an on demand system in which individual subscribers receive requested programs over a dedicated channel, and that only one subscriber receives the requested program over that channel. To compile, according to Webster's New Collegiate Dictionary, means to collect into a volume. A copy of the Webster's definition is attached. What Wunderlich discloses, use of a dedicated on demand channel for each subscriber, does not require "compiling." Simply put, Wunderlich does not disclose or suggest compiling. Nor does Wunderlich disclose or suggest grouping or counting requests for a requested program. Furthermore, Farry and Block also do not disclose or suggest compiling, grouping or counting program requests.

In contrast to Wunderlich, Farry, and Block, individually and in combination, claim 3 recites a processor that comprises control software to compile, group, or count program requests. Since these features are not taught by Wunderlich, Farry and Block, individually and in combination, claim 3 is patentable. In addition, claim 3 is patentable because of its dependence on patentable claim 1.

#### **Claim 5**

Claim 5 is amended to recite a timer, "wherein the network manager monitors program requests for a same program within a time period set by the timer, and wherein set top terminals requesting the same program within the time period receive the requested same program." This feature is not disclosed or suggested by Wunderlich, Farry and Block, individually and in combination. Accordingly, claim 4 is patentable. Claim 4 is also patentable because of its dependence on patentable claim 1.

### **Claims 2 and 5 – 8**

Claims 2 and 5 – 8 depend from patentable claim 1, and for this reason and the additional features they recite, claims 2 and 5 – 8 are also patentable.

### **Claim 9**

Regarding claim 9, the Office Action states that “Claim 9 is met by the combined systems of Wunderlich, Farry and Block as described in the rejections of claims 3 and 8.

As noted above with respect to the rejection of claim 3, Wunderlich, Farry and Block, individually and in combination, do not disclose or suggest a processor having control software “to compile, group or count said program requests.” Accordingly, claim 9 is patentable.

### **Claim 10**

Regarding claim 10, the Office Action asserts that claim 10 is met by the combined systems of Wunderlich and Farry.

As noted above, Wunderlich and Farry do not disclose or suggest use of previews. In contrast to Wunderlich and Farry (and Block), claim 10 recites “a file server, connected to said authorization component, capable of receiving a first authorization code to enable set top terminals to tune to a preview and to enable delivery of a requested program.” Since this feature is not taught or suggested by Wunderlich and Farry, individually and in combination, claim 10 is patentable.

### **Claim 17**

Regarding claim 17, the Office Action asserts that claim 10 is met by the combined systems of Wunderlich and Farry.

As noted above, Wunderlich, Farry (and Block) individually and in combination, do not disclose or suggest a processor having control software “to compile, group or count said program requests.”

In contrast to Wunderlich and Farry, claim 17 recites a processor having control software “to compile, group or count said program requests.” Accordingly, claim 17 is patentable.

### **Claims 11 – 16, 18 and 19**

Claims 11 – 16 depend from patentable claim 10, and claims 18 and 19 depend from patentable claim 17. For these reasons and the additional features they recite, claims 11 – 16, 18 and 19 are patentable.

## **Claim 20**

Regarding claim 20, the Office Action states that its features are “met by the combined systems of Wunderlich, Farry and Block as described in the rejection of claim 1.” Claim 20 is currently amended to incorporate the features of claim 21, and claim 21 is canceled. Regarding claim 21, on page 11 the Office Action “takes Official Notice” that its features are “well known in video-on-demand (VOD) or store- and-forward systems.” Applicants hereby traverse this use of Official Notice. Applicants respectfully request the Examiner to produce a document to substantiate the Official Notice. *See* MPEP §2144.03 (When relying on common knowledge in the art or “well known” in the art, the examiner should cite a reference in support of his/her position if the applicant traverses such an assertion). Otherwise, Applicants assert that the subject matter of claim 21 is patentable, and hence claim 20 is now patentable.

## **Claims 24 and 25**

Regarding claims 24 and 25, the Office Action asserts that their subject matter is met by “the combined systems of Wunderlich, Farry and Block ... except counting a period of time ... .” The Office Action also uses “Official Notice” of these features from Wunderlich, Farry and Block to complete the rejection of claim 24 and 25.

As noted above in response to the rejection of claim 21, Applicants respectfully request the Examiner to produce a document to substantiate the Official Notice. Otherwise, Applicants assert that claims 24 and 25 are patentable.

In view of the above amendments and Remarks, Applicants respectfully request withdrawal of the rejections of claims 1 – 21 and 23 – 25 under 35 U.S.C. § 103.

## **CONCLUSION**

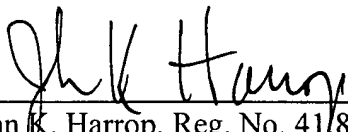
For at least the reasons set forth above, Applicants respectfully submit that this application is in condition for allowance. Favorable consideration and prompt allowance of the claims are earnestly solicited.

Should the Examiner believe that anything further is desired in order to place the application in even better condition for allowance, the Examiner is invited to contact applicants’ undersigned representative at the telephone number listed below.

The Commissioner is hereby authorized to charge any additional fees, or credit any overpayment, caused by this filing to Deposit Account Number 50-2849.

Respectfully submitted,

Date: **January 29, 2004**

  
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